



Town of Jericho
Development Review Board

Town of Jericho
Development Review Board
Jericho Town Hall
Thursday, February 25, 2016

Minutes

Members Present: Barry King, Christopher West, Joe Flynn
Members Absent: Jeff York, Stephanie Hamilton
Guests: Michelle Patrick (Zoning Administrator), Amy Richardson (Secretary)
Public: Andrew Grab, Bruce Jacobs

MEETING AGENDA

- A request by Jennifer Borch (represented by Andrew Grab) for Sketch Plan Review of a minor, two-lot subdivision at 45 Packard Road. This parcel is located in the Village Zoning District.

Mr. King called the public meeting to order at 7:01 p.m. He read the warning. He asked the members to disclose any conflicts of interest or ex parte communication. There was none. Mr. King read the Interested Persons Law. The public was sworn in at 7:04 p.m.

1. A request by Jennifer Borch (represented by Andrew Grab) for Sketch Plan Review of a minor, two-lot subdivision at 45 Packard Road. This parcel is located in the Village Zoning District.

Applicant's Presentation

Mr. King asked Mr. Grab who he is and what his relationship is to the applicant. Mr. Grab said his girlfriend is Jennifer Borch and he is helping her through the process to subdivide the property. Mr. King said you don't have the legal standing per se to represent the applicant in an application. He stated it is okay for tonight because it is not an application yet, but it is highly irregular. He said because this is just a sketch review and the purpose is to help the applicant understand what issues there are and how you might go about dealing with them; it will be fine. Mr. King stated you should know that you will not be able to represent the applicant at a formal hearing because you don't have standing, or you would have to establish standing by Power of Attorney or some similar thing. Mr. West agreed.

Mr. Grab said the lot is 2.5 acres. Ms. Patrick clarified it is 2.45 acres. Mr. Grab asked if the owner's name could be corrected because the owner showing is her ex-husband. Ms. Patrick said she will tell the Assessor, but there is a process for it. Mr. Grab indicated the location of the driveway, the parking lot, a shed, and two small barns. He said the idea was to partition this part of the lot down here, leaving this barn with this house here because it is facing this way and the other barn is facing this way. He indicated where they would draw a line roughly. Mr. Grab stated we had some test pits done and everything looked pretty straightforward, as far as good soils go. He said Summit Engineering is working with us and a representative from the State was here while we did the test pits. He stated the soils look good for a conventional septic.

Ms. Patrick asked if they have an idea of what they would like to build and where. Mr. Grab indicated the location of a nice stone wall and some trees. He said instead of breaking this up, it seems to make sense to leave the common driveway here and have it extend this way here. He stated it is a common driveway and it doesn't change the road frontage at all. Mr. Grab indicated the location where the house would be positioned in the back area. He indicated locations of woods and another development. Mr. West agreed, noting it is part of the Black Walnut development.

Mr. Flynn asked if the goal is to keep that garage on the original lot with the house. Mr. Grab agreed, saying the idea was by putting this house back here, aesthetically the views will be spread out a little more. Mr. West asked if the setbacks work for that. He said this is in the village center, so what are the rules for that. Ms. Patrick clarified it is village zoning. Mr. King stated that in a final site plan you would want to draw out where the setbacks are, but I didn't see that there was really any challenge with the setbacks. He said there is plenty of room to meet the setbacks. Ms. Patrick stated the setbacks are: 25' front yard, 15' side yard, and 20' rear yard.

Mr. Grab indicated the location of the house and a small shed that is falling down. Mr. King said he noticed that there are some structures straddling the line, which is interesting. Mr. Grab said they are the neighbors' campers. Mr. King clarified it has been that way. Mr. Grab agreed that it has been that way and it is not a big deal. He said it probably won't change and it probably wouldn't affect anything. Mr. West stated your Engineer will know this, but if the subdivision goes through and you have to put a building envelope in here that meets the setbacks and that will be shown on the plat. Mr. Grab said they will be putting a drawing together with all the details, noting they did the survey already.

Ms. Patrick stated there is a creek that runs through back of the property, which is within the Town's River Overlay District. She said that acts like an extra setback because it is a buffer zone and essentially you can't build anything within that. Mr. Grab asked about the distance required. Ms. Patrick clarified there is no setback from the River Overlay; the River Overlay is a buffer. She indicated the location where you couldn't build, noting they would want to show it on the final plat. Mr. King stated it seems to me like the primary consideration here is how to figure out how to do the lot lines and rights of way so that you can get legal lots, which also have the common driveway. Mr. West added they would also need language for a shared driveway maintenance contract for whomever bought the new property.

Ms. Patrick said something we should mention in terms of the dimensional standards for the lot is the frontage. She stated it is a minimum 120' per lot in this zoning district and because the whole lot has 336', you have enough frontage to provide for two lots. She noted that with the driveway, if you wanted to keep that on the one parcel, you wouldn't meet the minimum. Ms. Patrick said there would either need to be some kind of easement or legal agreement, or the driveway would need to be moved; noting there is a stone wall on the other side of it as Mr. Grab mentioned. Mr. Flynn asked if the trouble would be to have the garage on the lot it should be on.

Mr. Grab said he just walked it on the way over here, noting the distance on either side of the driveway. Mr. Flynn said he scaled it off and 120' frontage goes just about to where the driveway is now. Mr. Grab said he just paced it off at 3' a pace. Mr. Flynn said with the minimum frontage, it puts it on the other side of the driveway, which puts the garage on the lot you don't want the garage on. The DRB members discussed possible approaches.

Mr. King stated what I was thinking is why is this not just a PUD set up the way you want to break it up. He read the language in the regulations that talk about the purpose of a PUD, relating it to the purposes of the proposed plan. Mr. Grab asked what is a PUD. Mr. King stated it is a Planned Unit Development, explaining it is the same process, with the same criteria, but differences in the allowable lot layouts. Mr. West noted the requirement for common land. Mr. King asked if there is the requirement. Ms. Patrick clarified that in the village center there is not, but in the village there is. Mr. West explained how the common land would work. Mr. Flynn asked if there are density bonuses in the village district with a PUD. Ms. Patrick said there can be.

Mr. Grab clarified the impact of the common shared driveway. Ms. Patrick said that is something she was discussing with Jennifer. She discussed the role of road frontage and the driveway. Mr. Grab asked what if the property line went from here to down here; there is no road frontage and a shared driveway. Ms. Patrick said that is an interesting point. Mr. Grab said he thinks the ideal situation is here. Ms. Patrick clarified he is saying the lot to be subdivided off wouldn't have any road frontage. Mr. Flynn stated we can't create a non-conforming lot without frontage. The DRB members discussed the matter further. Mr. Grab asked whether they could get a waiver for the 120'. Mr. King responded that the simple answer is no.

Mr. Grab said if you looked, I think you would agree it would make sense to have the one barn. Mr. King said the rules make it so you can't subdivide this in a sensible way. Mr. West stated we are bound by the rules. Mr. Flynn said it is the garage that cause all the problems. Mr. King stated there is a sensible way to do it that moves the garage to the new lot. He said I know there are subdivisions that have back land lots that are part of them, which are established by a subdivision and are accessed by a shared driveway. Ms. Patrick addressed Mr. King, saying what you pointed out and what we were talking about at the meeting before last, related to not creating a lot without road frontage. She read from the regulations. Mr. West stated it also says that the open space land is only not required in the village center, Section 10.13.4.

Mr. King stated he wasn't aware there was a requirement for there to be an open lot; he only thought that open space was one of the criteria for setting up the PUD. He said we need to understand that because if that is the case, this would have to be broken into three lots which probably doesn't make sense either. Ms. Patrick stated it can be a separate undeveloped lot, or as a portion of a single lot outside of the building envelope. Mr. King said the whole thing we are trying to do here is a sensible subdivision which preserves the open space and the other features as they are, as much as possible. He said it seems to me that the PUD process is the way to do that.

Ms. Patrick said what is tricky because there is the River Overlay District in there, that would need to be contained in the open space, which is in the back end of the lot, near the original owner of the lot. Mr. King stated I don't follow. Ms. Patrick read from Section 10.13.4 clarifying the natural resource needs to be preserved. Mr. West clarified it could be used as part of the open space. Ms. Patrick and the DRB members discussed the matter further, including what is considered adequate protection. Ms. Patrick clarified that because open space needs to be contiguous, it would need to start in that back corner and then stretch up. Mr. King asked her to explain about the contiguous thing. Ms. Patrick said if it is an open space, reserved area, it needs to be accessed through both lots. Mr. Grab clarified it has to be accessed through both lots. Ms. Patrick said I believe so. Mr. West noted that access can be walking access. He read Section 10.13.5.3. Ms. Patrick said maybe it doesn't need to touch all the lots.

Mr. King stated the whole point of the application is to show that what you are trying to do is reasonable and meets the regulations. He said if it is, then the development plan will show that. He said it seems that the things we are trying to protect are the scenic character of the corridor along the road and the River Overlay District, which are all along that left edge. Mr. King stated if those things are delineated as protected in the subdivision plat, then I don't think they have to be touching to meet the rules; I just think they have to be designated as protected by the covenant in the subdivision plan. He stated I think you can make two lots, an easement for driveway, and open space preserved by covenant in the one plan which would meet the PUD regulations. He said you have to use the PUD process to do it because you are doing a non-standard layout for some reason. Mr. West said the reason is the road frontage. Mr. King agreed, saying preservation of the road frontage, rather than reconfigure the driveway and not preserve it.

Mr. Grab clarified there would be two lots and there has to be somewhere on there a portion of land allocated towards common, shared, preserved space. He asked how that works on 2.5 Mr. West read Section 10.13.5.2. Mr. King said we are talking about 25%, but it doesn't have to be subdivided as a separate lot. He stated it has to be covenanted as protected, but it doesn't have to be subdivided as a separate lot. He discussed how this is typically handled in a PUD. Mr. Grab clarified they are trying to keep this barn here and this barn here, with at least over an acre, and part of this would have to be designated as protected. The DRB members, Ms. Patrick, and Mr. Grab discussed how 25% of the land could be designated as open space. They also discussed uses for the common space.

Mr. Grab asked if the septic could be located in the protected area. Mr. King said maybe, it would have to be described in the legal documents. Mr. Flynn clarified existing lot has a designated replacement area for the wastewater system on the existing lot. Mr. Grab agreed, saying we also did a test pit over there and they have to prove there is the ability for a system to be self-contained on the lot. Mr. Flynn said that with those being there, the well and the other disposal location, did they address that there will there be enough room on the lot, or will you plan on sharing the well. Mr. Grab stated it would be a separate well. Mr. Flynn stated it will be tight. Mr. King said it may be difficult to make it all fit.

Mr. West noted there is no reason why, according to the rules, that you couldn't split the space between the existing lot and the new lot. Mr. King suggested the road corridor and the street trees could be included. He reiterated the rationale and tradeoffs with the PUD. Mr. Grab asked if it could be in two separate pieces. Mr. King said the rules discourage that, saying it should be one contiguous if at all possible. He stated that it needs to be for some purpose, discussing an example. Mr. Grab, Ms. Patrick, and the DRB members discussed the matter further.

Mr. King discussed what needs to be included in the final deeds and legal documents, noting an example. He referenced Section 10.13 relating to the PUD review process. Mr. Grab discussed a possible way to protect the river corridor, the trees, and the road frontage. He asked if they would have to talk to the neighbors if that area was part of a protected area. Mr. Flynn stated if you do a PUD and have association documents it affects the rights to you as owner and the rights of the new owner. Mr. Grab said they don't want to cause big issues with the neighbors, asking if they would have to move the vehicles. Mr. King said maybe. Mr. Grab and the DRB members discussed the matter further, including the areas where Mr. Young could assist the applicants, notification requirements, and legal documents involved.

Mr. Grab clarified that in order to sell the lot they would have to have the full schematic done with details for this process and building is a separate process with septic design and driveway design. Mr. King said he thinks they have to have the septic design before they can do the subdivision because this is small enough that you can't defer it. Ms. Patrick agreed, saying we have required evidence that the lot can handle septic, but a wastewater permit is not needed until you are going to get a zoning permit. Mr. King clarified it would be possible to do the subdivision and sell the lot without the permit. Mr. Grab stated we have evidence that it will support a conventional septic. The DRB members and Ms. Patrick discussed the matter further.

Mr. Grab expressed concern about spending a lot of money and constraining himself with the building envelope, discussing an example. He said they may build on this lot themselves and they are trying to go incrementally forward, but to spend extra money on the design work is costly. He said they are trying to figure out how to do it piecemeal going forward, suggesting how they could approach it. Mr. King said it is defined, but if you haven't done a design and gotten a permit then the lot is unbuildable until that happens. Mr. Flynn noted that in the State of Vermont you can't subdivide. Mr. Grab said you can defer it. Mr. Flynn stated he hasn't seen a PUD with a deferment. Ms. Patrick and the DRB members agreed.

Mr. King stated as far as what the PUD rules require, if they want to do a subdivision without doing a site plan and septic. Ms. Patrick noted an example where a subdivision was approved without a septic plan. Mr. Flynn stated it requires a deferred statement. Mr. King described the State requirements in that type of a situation. The DRB members and Mr. Grab discussed the matter further. Mr. King cautioned Mr. Grab to be careful where you propose the building envelope, discussing the importance of being sure you are happy with the location before you apply. Mr. Grab said he understands that additional review would be required for any changes made after approval.

Mr. Flynn asked if the testing you did for soils was widespread. Mr. Grab said it was and he indicated the locations of the five test pits done, noting they were spaced out quite a bit. Mr. Flynn said one of the benefits of a PUD is that the well can be across the property and if it is on the common land, you don't need an easement. He discussed how it would work as a normal subdivision with these circumstances. Mr. West noted this is on the water district. Mr. Flynn said they still need separation. The DRB members discussed whether the property has access to the water district. Mr. King asked how that affects the design of the septic. Mr. Flynn stated the separation is much smaller, discussing an example. The DRB members and Mr. Grab discussed possible locations for water and septic, including separation distances.

Mr. Grab confirmed the areas he needs to work on with Larry. Mr. King added other documents that will be needed. Ms. Patrick asked if they could put a garden in there. Mr. King stated it depends on the present use of the area. He said they will need to make sure the paperwork clearly describes the uses and what is being preserved. He noted that defining the building envelope will do some of the work for you. Mr. Grab and Mr. King discussed things to consider when determining the lot layout.

Mr. King asked Ms. Patrick whether there is a buildout plan for the adjacent land development. Ms. Patrick said she was just thinking about that. She said she doesn't think this area will be developed, noting that they are building out back here and will connect back over on Orr Road. She stated this is going to connect, so Packard and Orr Road will eventually connect through that development. Ms. Patrick, Mr. Grab, and the DRB discussed the adjacent development further. Mr. Grab noted there has been a truck parked in the field for a long time. Ms. Patrick said it is considered outdoor storage

unless it is leaking something or causing an environmental issue. Mr. Grab asked who owns the lot. Ms. Patrick responded it is owned by Gardner Construction. Mr. Grab said he will contact him to ask if he would move the truck.

The DRB members, Ms. Patrick, and Mr. Grab discussed reasons for final review versus preliminary and final review, including the fees involved. Mr. Grab thanked the DRB members for their effort, noting he will probably have Larry here for the other hearings. He confirmed his understanding of his list of things to do. Ms. Patrick stated there is a checklist of all the plat requirements that need to be included for final review. Mr. Grab clarified the list of legal documents required with the DRB members. Mr. Grab said they will talk to Larry about the neighbors' cars and make them aware of what is going on.

Mr. Grab asked about setting up another hearing. Ms. Patrick said he should work with Larry to gather everything. She discussed the meeting schedule and the timeframe for warning the hearing. Mr. King noted there is a delay between when you apply and when we can have the hearing because of the warning process. Ms. Patrick showed Mr. Grab where to access the checklist online. Mr. Grab asked when the final plat needs to be ready. They discussed what is needed for the hearing versus what is filed after approval.

The DRB members spoke with Mr. Jacobs about his interest in serving on the DRB. Mr. Jacobs discussed his experience and the reasons why he would like to serve on the DRB. The DRB members discussed what is involved and the time commitment. Ms. Patrick said she would send Mr. Jacobs copies of the regulations and the Town Plan. The DRB members said staff is excellent.

Mr. Flynn noted there will be new regulations relating to small farms. Ms. Patrick agreed, noting what she had heard about the new regulations. The DRB members and Ms. Patrick discussed the implications of the new regulations, including some examples.

Ms. Patrick noted the next hearing will be held on March 10, 2016. The Development Review Board adjourned at 8:29 p.m.